

1 John R. Benefiel (P 28970)
2 280 Daines Street
3 Suite 100 B
4 Birmingham, Michigan 48009-6244
5 810-644-1455

6 Janice P. Brown (114,433)
7 SELTZER CAPLAN WILKINS & McMAHON
8 2100 Symphony Towers
9 750 B Street
10 San Diego, California 92101
11 619-685-3003
12 Attorneys for Defendant

13 IN THE UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

15 NEW AGE PRODUCTS, INC.,

16 Plaintiff,

17 v

Civil Action No.
96 2129 J CGA

18 PROGRESSIVE INTERNATIONAL CORPORATION,

19 Defendant.

20 AFFIDAVIT OF JOHN L. WITT

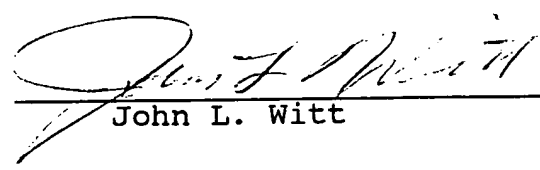
21 I, the undersigned do depose that:

22 I am presently the ^{CEO/Chairman} ~~president~~ of Witt Plastics, Inc. of
23 Greenville, Ohio, and have been ^{CEO/Chairman} ~~president~~ of Witt Plastics, Inc.
since prior to 1991.

24 2. Attached are true copies of sales documents, kept in the
25 ordinary course of business by Witt Plastics, Inc., numbered
26 Exhibits 1-18. These documents reflect actual sales and shipping
27 transactions made by Witt Plastics, Inc. on the dates indicated on
28 the documents.


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3. Attached as Exhibit 19 is a true copy of a specification sheet received prior to 1991 from Rexene Products Company, giving product data for its resin designated PP9231. Rexene PP9231 was used by Witt Plastics, Inc. to fabricate the extruded sheets for the sales to Schneider Plastics, Inc. corresponding to Exhibits 1-18 above.

Date: 5/27/97 
John L. Witt

STATE OF OHIO)
) ss.
COUNTY OF _____)

Subscribed and sworn before me, this 27 day of May, 1997.

(seal) 
Notary Public

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GREENVILLE, UT PHONE: 513/548-7272
Lakeland, FL Phone: 813/665-6550
FOR CORRESPONDENCE, REFER TO INVOICE NUMBER
No. 27248 # 27248

CUSTOMER'S ORDER NO. 1936 DATE 10/31/91 APPROXIMATE SHIPPING DATE 06/91 VIA Common Carrier

BOLD TO Schneider Plastics, Inc.
220 Bingham Dr. #105
San Marcos, CA 92069

SHIP TO: Creative Plastics
6365 Nancy Ridge Road
San Diego, CA 92121

DATE SHIPPED 12/04/91
ROUTED Churchhill
Trucking
GROSS WEIGHT 2,797#

TERMS: NET 80

P.O.B. Greenville, Oh/Collect

QUANTITY ORDERED	DESCRIPTION	UNIT PRICE	QUANTITY SHIPPED	EXTENSION
APPROX.) 2,500 lbs.	POLYPROPYLENE (9231) EXTRUDED SHEET CLEAR - SMOOTH FINISH Extrusion Sheet Size: .010" x 36" x 47"		(4520 shes) 1.170/lb. 2525#	\$ 2954.25
INVOICE TOTAL \$				2954.25

FILE COPY

P.O. Box 808 • Greenville, Ohio 45331

Greenville, OH Phone:

513/548-7272

FOR CORRESPONDENCE REFER
TO INVOICE NUMBER

Lakeland, FL Phone:

813/665-6550

No. 9478

CUSTOMERS
ORDER NO.

19481

LATE
ENTERED 4/26/85

APPROXIMATE
SHIPPING DATE

SHIP
VIA
Common
Carrier

INVOICE
DATE
DATE
SHIPPED

5/29/85

SOLD TO:

Industry Products

500 Scatler Road

SHIP TO:

Piqua, OH 45356

Same as above

ROUTED

5/29/85

GROSS
WEIGHT

Dick Lavy Trk
11,094 lbs.

TERMS:

NET 30

F.O.B. Greenville, OH/Collect

QUANTITY ORDERED	DESCRIPTION	UNIT PRICE	QUANTITY SHIPPED	EXTENSION
10,000 lbs.	REF: Witec Invoice #9283 4/26/85 POLYPROPYLENE (7129) EXTRUDED SHEET BLACK-SMOOTH FINISH			(1712 Shts) Total lbs Shipped - 9,988#
	Sheet Size: .050" x 56" x 64"			
	Witec Plastics Material	\$.96/lb.	4,994#	\$ 4,794.24
	Industry Products Material	\$.33/lb.	4,994#	\$ 1,648.02
	Grinding Charges on Salvage Material	\$.05/lb.	4,994#	\$ 249.70
THANK YOU				INVOICE TOTAL \$ 6,691.96

P.O. Box 808, Greenville, Ohio 45331

Greenville, OH Phone:

513/548-7272

FOR CORRESPONDENCE REFER
TO INVOICE NUMBER



Lakeland, FL Phone:
813/665-6550

No.

22308

CUSTOMER'S
ORDER NO. 110638

DATE
ENTERED 01/31/90

APPROXIMATE
SHIPPING DATE 02/09/90

SHIP
Common

Carrier

INVOICE
DATE

02/23/90

SOLD TO: Placon

P. O. Box 8246

Madison

WI 53708

SHIP TO:

Placon

6096 McKee Road

Madison

WI 53708

TERMS:

NET 30

F.O.B. Greenville, OH/Collect

DATE SHIPPED 02/22/90
ROUTED Whiteford
Truck
GROSS WEIGHT 8,459#

(approx.)

7,500 lbs.

QUANTITY ORDERED	DESCRIPTION	UNIT PRICE	QUANTITY SHIPPED	EXTENSION
	POLYPROPYLENE EXTRUDED SHEET Rexene 9231) NATURAL (CLEAR) SMOOTH FINISH			
	Sheet Size: .020" x 16 11/16 Roll		(48 rolls) 0.980/lb. 8059#	\$ 7897.82
INVOICE TOTAL \$				7897.82

ACCOUNTING

P.O. Box 808 - Greenville, Ohio 45331



Greenville, OH Phone:
513 / 548-7272

FOR CORRESPONDENCE REFER
TO INVOICE NUMBER

Lakeland, FL Phone:
813 / 665-6550

No. 027249

CUSTOMER'S ORDER NO. 1936 DATE ENTERED 10/31/91 APPROXIMATE SHIPPING DATE / /

SHIP VIA

INVOICE DATE 11/11/91

DATE SHIPPED / /

ROUTED

GROSS WEIGHT

SOLD TO: Schneider Plastics, Inc.
220 Blingham Dr. #105
San Marcos, CA 92069

SHIP TO:

TERMS: NET 30

F.O.B.

QUANTITY ORDERED	DESCRIPTION	UNIT PRICE	QUANTITY SHIPPED	EXTENSION
3,500 lbs.	CLEAR POLYPROPYLENE 9231 RESIN (PURCHASED FOR SCHNEIDER PLASTICS PO #1936)	0.750/lb.	3500#	\$ 2625.00
INVOICE TOTAL				\$ 2625.00

FILE COPY

(513) 548-7272

Order No. 1936

Terms:

Home Creative Plastics
6365 Nancy Ridge Rd.
San Diego, CA 92121

[illegible]

Cr. surf. \rightarrow ON BACK

Die Cut - $11\frac{1}{2} \times 15$ in. Sheet Size. - ~~KG5~~ [?] ~~INDUSTRY~~ [?]

Standard ()
Special — Specify ()

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Exhibit 8
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P.O. Box 808, Greenville, Ohio 45331

Plastics

Greenville, OH Phone:

714513/548-7272

FOR CORRESPONDENCE REFER
TO INVOICE NUMBER

No. 029439

CUSTOMER'S ORDER NO. Verbal

DATE ENTERED 08/28/92 APPROXIMATE SHIPPING DATE 09/18/92 VIA SHIP

Common Carrier DATE INVOICE DATE 09/21/92

Lakeland, FL Phone: 813/665-6550

SOLD TO: Schneider Plastics, Inc.

220 Bingham Dr. #105

San Marcos, CA 92069

SHIP TO:

Creative Plastics

6365 Nancy Ridge Road

San Diego, CA 92121

TERMS: NET 30

DATE SHIPPED 09/21/92
ROUTED Consolidated
Freight
GROSS WEIGHT 2,715#

F.O.B. Greenville, OH/Collect

QUANTITY ORDERED	DESCRIPTION	UNIT PRICE	QUANTITY SHIPPED	EXTENSION
(APPROX.)	POLYPROPYLENE EXTRUDED SHEET CLEAR - SMOOTH FINISH			
2500 lbs.	Sheet Size: .010" x 36" x 47"		(4521 sheets) 2.260/lb. 2541#	\$ 5742.66
INVOICE TOTAL \$				5742.66

FILE COPY

THIS SHIPPING ORDER

must be legibly filled in, in ink, in indelible pencil, or in carbon, and retained by the Agent.

RECEIVE, subject to the classifications and lawfully filed tariffs in effect on the date of this Shipping Order.

From **WIT PLASTICS, INC.**

RECEIVED B/L--FREIGHT

At **Greenville, Ohio 45381**

Sept. 21, 19 **92BY**

DESIGNATE WITH AN (X)
TRUCK ☐ FREIGHT ☐

Shipper's No. **18599**

By **Consolidated Freight**

Company

Agent's No.

Consigned to **Creative Plastics, 6365 Nancy Ridge Road**

or street address of consignee—For purpose of notification only.

Destination **San Diego, CA 92121**

State of

County of

Route **SEE SPECIAL BILLING INSTRUCTIONS BELOW--HOT HOT RUSH RUSH**

Delivering Carrier **same**

Vehicle or Car Initial

No.

NO. OF PACKAGES	DESCRIPTION OF ARTICLES, MATERIALS AND EXCEPTIONS	WEIGHT (subject to tare)	CLASS OR RATE	CHECK COLUMN
3-skids	Plastic Film Or Sheeting O/T Cellulose, Printed Or Not Printed, In Flat Sheets Not Further Processed Than Cut To Size, Or In Lengths Of Not Less Than 100 Feet In Rolls Not Less Than 3 Inches In Diameter. (Per NMFC 100A, Item 156830) SUB 1 - 15' PCF OR GREATER	2,715#	TL35	
	Plastic Sheet Scrap NOT In Bags, Barrels Or Boxes, TL/ (Per NMFC 100A Item 156280); LTL/156600 (Specify Density)		CL55	
	Plastic Plates, NOT Granules, Lumps, Pellets, Powder Or Solid Mass In Barrels, Boxes, Or Pails, In Multiple-Yard Paper Bags, Or In Packages. (Per NMFC 100A, Item 156200)			
	Send freight bill to:	Schneider Plastics, Inc		
		220 Bingham Dr. #105		
		San Marcos, CA 92069		

This bill of lading is for the shipment conform to the specifications set forth in the box maker's certificate thereon, and all other requirements of Rule 21 of the Consolidated Freight Classification.

THIS SHIPMENT IS CORRECTLY DESCRIBED

CORRECT WEIGHT IS **185** LBS.

WIT PLASTICS, INC.
Martindale Rd., P.O. Box 808, Greenville, Ohio 45351

Shipper, Per **Tom Patton**

Agent, Per

Agent must detach and retain this shipping order and must sign the Original Bill of Lading.

2

SHIPPER HEREBY CERTIFIES THAT HE IS FAMILIAR WITH ALL THE TERMS AND CONDITIONS OF THE SAID BILL OF LADING, INCLUDING THOSE ON THE BACK THEREOF, SET FORTH AND ACQUITTED BY THE SHIPPER AND HIS AGENTS.

BN
BK

(513) 548-7272

Order No. *74178*

Terms:

Shipped To: 92 Creative Plastics

18² 6365 Nancy Ridge Rd.
San Diego, CA 92121

DIANA (619) 744-5037

Special Comments:

Standard ()
Special — Specify ()

Vacuum Formed	()
Deep Draw	()
Shallow Draw	()
Lithograph	()
Silk Screen	()

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NON-CONFORMANCE REPORT

10/17/92 NC RPT# 1037

I. No. 788 Cust. Name Schneider Plastics

II. On Contacted Rod Thompson P.O. # VERBAA

III. Type L Surface Sm Color CLR Job # 21814

IV. QID x 36 x 47

V. No. 1394-1396 Compl. only Ret Gds. L

VI. Quantity Involved 1000# On-site visit requested

VII. Formers description of non-conformance:

Cracks, Die Lines

Finger Prints

VIII. Samples being sent? X Yes No

IX. Is product need to be replaced? X Yes No

X. Date given for arrival of replacement 10/27/92

XI. Argument for pick-up of return:

10/27/92 TBA

Exhibit 8

Page 49

Dept/Mach Cause Control Center

Code: 540 Code: Code:

Name WELBAM 1ST

Shift 2ND

Sort/Inspector SUE/BOB

Date issued:

CORRECTIVE ACTION TAKEN:

10/17/92

1037

Schneider Plastics

Rod Thompson P.O. # VERBAA

L Surface Sm Color CLR Job # 21814

QID x 36 x 47

1394-1396 Compl. only Ret Gds. L

1000# On-site visit requested

Cracks, Die Lines

Finger Prints

Samples being sent? X Yes No

Is product need to be replaced? X Yes No

Date given for arrival of replacement 10/27/92

Argument for pick-up of return:

10/27/92 TBA

Exhibit 8

Page 49

Dept/Mach Cause Control Center

Code: 540 Code: Code:

Name WELBAM 1ST

Shift 2ND

Sort/Inspector SUE/BOB

Date issued:

PREVENTIVE ACTION

10/17/92

1037

Schneider Plastics

Rod Thompson P.O. # VERBAA

L Surface Sm Color CLR Job # 21814

QID x 36 x 47

1394-1396 Compl. only Ret Gds. L

1000# On-site visit requested

Cracks, Die Lines

Finger Prints

Samples being sent? X Yes No

Is product need to be replaced? X Yes No

Date given for arrival of replacement 10/27/92

Argument for pick-up of return:

10/27/92 TBA

Exhibit 8

Page 49

Dept/Mach Cause Control Center

Code: 540 Code: Code:

Name WELBAM 1ST

Shift 2ND

Sort/Inspector SUE/BOB

Date issued:

P.O. Box 808, Greenville, Ohio 45331

Greenville, OH Phone:

FOR CORRESPONDENCE, REFER
TO INVOICE NUMBER

TV1513/548-7272

At Lakeland, FL Phone:

813/865-6550

No. 029693

CUSTOMER'S VERBAL DATE 10/13/92 APPROXIMATE 10/27/92 SHIP Common

ORDER NO. 029693 ENTERED 10/13/92 SHIP DATE 10/27/92

INVOICE DATE 10/20/92

DATE 10/20/92

SHIPPED Watkins

ROUTED Motor

GROSS WEIGHT 2,900#

SHIP TO: Creative Plastics

6365 Nancy Ridge Road
Greenville, OH 45321

TERMS: NET 80

FOB Greenville, OH/PREPAID

QUANTITY ORDERED DESCRIPTION

(APPROX.) POLYPROPYLENE EXTRUDED SHEET
CLEAR SMOOTH FINISH

2500 LBS. SHEET SIZE: .010" x 36" x 47"

UNIT PRICE QUANTITY SHIPPED EXTENSION

2.260/lb. 2609# (4525 shes) \$ 5896.34

INVOICE TOTAL \$ 5896.34

FILE COPY

From WITT PLASTICS, INC.

**At:
Greenville, Ohio 45381**

By WATKINS MOTOR

Company

Agent's No

19632

OCT. 20 19-92 BY

**DESIGNATE WITH AN (X)
TRUCK ☐ FREIGHT ☐**

Consigned to CREATIVE PLASTICS, 6365 Nancy Ridge Rd.

~~consignee~~ For

(Mail or street address of consignee—For purposes of notification only.)

Consigned to GENEALIVE PLASTICS, 6365 Nancy Ridge Rd.
 Destination San Diego, CA 92121 State of _____

-State of _____ County of _____

PLEASE SEE BILLING INSTRUCTIONS BELOW

Delivering Carrier same

Vehicle or Car Initials _____

No.

C. O. D. SHIPMENT

C. O. D. Amt. _____

CORRECT WEIGHT IS _____ LBS.

Per _____ Shipper _____

Collection Fee _____

WITT PLASTICS, INC.
Martindale Rd., P.O. Box 808, Greenville, Ohio 45331
Permanent post office address of shipper

Shipper, Per Tom Patton

Tom Patton

on 207114 1974 Agem, P. 11.10.12

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استدلال

Order No. Verbal - Replacement

Terms:

3/ Bob Thompson (619) 144-3037

82/6365 Nancy Ridge Rd
San.iego, CA 92121

Special Comments:

Customer Needs Good Surface on Sheet
Run Gauge to the plus side if this
will help.

Material:	Virgin	() _____	Dimensional Tolerances:	End Uses:
	Regrinds	() _____		
	Customer Material	() _____	Standard	() - _____
	Purchase Trim Scrap	(@) _____		
S Requirements:	L. P. E.		Length	() - _____
	Min. Sag () shallow draw			
	Min. Sag () deep draw		Width	() - _____
	Standard () not vacuum formed			
			Square	() - _____
			Gauge	() - _____
				Vacuum Formed ()
				Deep Draw ()
				Shallow Draw ()
				Lithograph ()
				Silk Screen ()
				Flat Sheet _____

P.O. Box 808 • Greenville, Ohio 45331

Plastics

Greenville, OH Phone: 513/513-648-7272
FOR CORRESPONDENCE REFER
TO INVOICE NUMBER

No. 030282

IA Lakeland, FL Phone: 813/665-6550

CUSTOMER'S NAME: DATE: ORDER NO. 12/02/92 ENTERED 12/02/92 SHIPPING DATE 12/18/92 VIA WATKINS

Handwritten: 12/21/92

SOLD TO:

SHIP TO:

TERMS:

Greenville Plastics, Inc.
3200 Birmingham Dr. #106
San Diego, CA 92121

F.O.B. Greenville, OH/collect

INVOICE DATE: 12/21/92
DATE SHIPPED: 12/21/92
ROUTED WATKINS
GROSS WEIGHT: 5,437#

QUANTITY ORDERED	DESCRIPTION	UNIT PRICE	QUANTITY SHIPPED	EXTENSION
1000 LBS.	POLYPROPYLENE EXTRUDED SHEET CLEAR - SMOOTH FINISH SHEET SIZE: .015" X 36" X 47"	1.600/LB.	6030 SHTS	8152.00
INVOICE TOTAL				\$ 8152.00

Handwritten: 12/21/92
3158.00
12/21/92

FILE COPY

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Verbalé

Watkins

Sprinkler Plastic

ppen 18: Creative Plastics

1631.5 Nancy Ridge Rd.

San Diego, CA 92121

Red Thompson (619) 744-5637

CUSTOMER: 235 Lexington Dr
ADDRESS: San Marcos, CA 92069

DATE: 12/1/73
PHONE NO.: 619-752-7240
PERSON CONTACTED: Red Thompson

MATERIAL: Polypropylene (9231)
COLOR: Clear

ADDITIVES: _____
SURFACE: Smooth

SHEET/ROLL SIZES:

.015" x 36" x 47"

TOLERANCES:

GAUGE	+	-
WIDTH	+	-
LENGTH	+	-
SQUARE	+	-

COMMENTS: Die Cut Application

QUANTITIES/PRICE COMPUTATIONS:

$5m\# / 1000 / 50\% / \$.75 / 350\# / 10\% = \$1.60 / \#$
 $m\# / 1000 / 50\% / \$.65 / 350\# / 10\% = \$1.44 / \#$
 $m\# / 1000 / 50\% / \$.62 / 350\# / 10\% = \$1.32 / \#$
 $m\# / 1000 / 50\% / \$.62 / 350\# / 10\% = \$1.27 / \#$
 $m\# / 1000 / 50\% / \$.59 / 350\# / 10\% = \$1.22 / \#$

SPECIAL REQUIREMENTS/REMARKS: FOB: Greenville, OH

SAMPLE REQUESTED: _____

MATERIAL: _____ COLOR: _____

SHEET SIZE: _____

SURFACE: _____ SHEETS/ROLLS: _____ LBS: _____

REXENE® RESINS**POLYPROPYLENE****PRODUCT DATA****TYPE:** PP 9231**DESCRIPTION:** Clarity, toughness, chemical, solvent, stress crack resistance; (FDA*)**APPLICATIONS:** Sheet extrusion for food, health and beauty aid products; general purpose extrusion and thermoforming where good clarity is desired.

TYPICAL PROPERTIES	ASTM TEST METHOD	VALUE	UNIT
MELT FLOW RATE	D 1238	1.0	DG/MIN
DENSITY	D 1505	.900	GM/CM ³
TENSILE	D 638		
YIELD STRENGTH		3,900	PSI
ULTIMATE ELONGATION		>300	%
MODULUS		150,000	PSI
FLEXURAL MODULUS	D 790	145,000	PSI
DEFLECTION TEMP. @ 66 PSI	D 648	91	°C
ROCKWELL HARDNESS "R"	D 785	80	
NOTCHED IZOD	D 256	1.8	FT-LB/IN

* Conforms to FDA regulation 21 CFR 177.1520

4/88

REXENE

Specialists in specialty resins

5005 LBJ FREEWAY • OCCIDENTAL TOWER • DALLAS, TX

CENTRAL REGION
1515 Woodfield Road, 7550NORTHERN REGION
322 Route 45 West, Suite 230
Greenville, SC 29615SOUTHERN REGION
2849 Paces Ferry Rd
Atlanta, GA 30329Exhibit 8
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